

#### **IC 3-12-4**

##### **Chapter 4. Canvassing Returns by County Election Board**

#### **IC 3-12-4-1**

##### **Members of county election board to canvass votes in county**

Sec. 1. The members of each county election board shall canvass the votes cast in the county.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.187.*

#### **IC 3-12-4-2 Repealed**

*(Repealed by P.L.3-1993, SEC.282.)*

#### **IC 3-12-4-3**

##### **Compensation of members of county election board**

Sec. 3. The members of a county election board shall be compensated for their services as canvassers in an amount to be fixed by the county executive.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.188.*

#### **IC 3-12-4-4**

##### **Employment of clerical assistants and write-in teams; nonpartisan student assistants**

Sec. 4. (a) Each county election board may employ clerical assistants if necessary for the proper canvassing and tabulating of the vote. However, except as provided in subsection (d), not more than one-half (1/2) of the assistants employed by the board may be members of the same political party.

(b) The county election board shall appoint the number of two (2) member write-in teams that are necessary to examine and count write-in votes cast on ballot card voting systems on election night. The county chairmen of the two (2) major political parties of a county shall each designate one (1) member of each write-in team. The write-in teams are considered employees of the county canvassing board and must meet the qualifications of canvassing board employees.

(c) Except as provided in subsection (d), a county election board may not employ a person to assist with canvassing unless the person would be eligible to serve as a precinct election officer under IC 3-6-6-7.

(d) The county election board may, by unanimous vote of the entire membership of the board, employ a student to assist the board under this section if the student is:

- (1) enrolled at an institution of higher education (including a community college); and
- (2) a registered voter of the county.

A student appointed under this subsection must serve the board in a nonpartisan manner.

*As added by P.L.5-1986, SEC.8. Amended by P.L.4-1991, SEC.113; P.L.1-1992, SEC.5; P.L.3-1993, SEC.189; P.L.209-2003, SEC.185.*

#### **IC 3-12-4-5**

##### **Compensation of clerical assistants**

Sec. 5. A county election board shall pay an assistant hired under section 4 of this chapter a reasonable rate of compensation for the assistant's services.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.357; P.L.3-1993, SEC.190.*

#### **IC 3-12-4-5.5**

##### **Chapter establishes standards to define vote**

Sec. 5.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system by a county election board.

*As added by P.L.209-2003, SEC.186.*

#### **IC 3-12-4-6**

##### **Canvass of certificates, poll lists, and tally papers returned by inspectors; providing room in courthouse**

Sec. 6. (a) At 6 p.m. on each election day, the county election board shall assemble in a room to canvass the certificates, poll lists, and tally papers returned by each inspector in the county and to declare the results of the election as provided in this chapter.

(b) The canvassing must be performed in public under IC 5-14-1.5. However, the board may restrict access to parts of the room where election material is being handled or transported to safeguard the material.

(c) Except as provided in section 7 of this chapter, the county executive shall provide a room in the courthouse that contains adequate space to permit members of the public to witness the canvassing of votes.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.191.*

#### **IC 3-12-4-7**

##### **Counties over 300,000; providing of assembly room**

Sec. 7. In each county having a population of more than three hundred thousand (300,000), the county executive shall, upon the written request and order of the judge of the circuit court of the county and at least ten (10) days before the election, provide a suitable assembly room for the county election board other than a room in the courthouse.

*As added by P.L.5-1986, SEC.8. Amended by P.L.12-1992, SEC.12; P.L.3-1993, SEC.192.*

#### **IC 3-12-4-8**

##### **Examination and comparison of certificates, poll lists, and tally sheets; aggregating and tabulating vote for county and political subdivision**

Sec. 8. The county election board shall:

- (1) carefully examine and compare the certificates, poll lists, and tally sheets; and
- (2) aggregate and tabulate from the papers entrusted to it the vote for the county and each political subdivision, as appropriate.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.193.*

#### **IC 3-12-4-9**

##### **Declaration of candidate with highest vote count; tabulation of votes for public question; certification of results**

Sec. 9. (a) This subsection applies to:

- (1) a local or school board office with an election district located entirely within one (1) county, except for an office for which a declaration of candidacy is filed with the election division under IC 3-8-2; and
- (2) a political party office, such as precinct committeeman or state convention delegate, elected at a primary election.

After the county election board has tabulated the vote, the board shall declare the candidate receiving the highest number of votes for each office to be elected.

(b) The county election board shall tabulate the votes cast for and against each local public question placed on the ballot by the county election board under IC 3-10-9-2 and, if the local public question is placed on the ballot only in that county, declare the public question approved or rejected.

(c) The county election board shall tabulate the votes cast for and against each public question voted on by the electorate of the whole state.

(d) The board shall certify the election results in a statement prepared by the circuit court clerk.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.358; P.L.10-1988, SEC.128; P.L.10-1992, SEC.24; P.L.3-1993, SEC.194; P.L.3-1997, SEC.342.*

#### **IC 3-12-4-10**

##### **Statement prepared by circuit court clerk; contents; copy for candidate**

Sec. 10. (a) The statement prepared under section 9 of this chapter must contain:

- (1) the name of each candidate;
- (2) the elected offices;
- (3) the total number of votes received by each candidate;
- (4) the total number of votes received by each candidate and cast for and against each public question in each precinct; and
- (5) the total number of votes cast at the election.

(b) Notwithstanding IC 33-37-5-1, upon request by a candidate, the circuit court clerk shall prepare a copy of the statement for the candidate at a fee not to exceed twenty-five cents (\$0.25) per page.

*As added by P.L.5-1986, SEC.8. Amended by P.L.7-1990, SEC.50; P.L.8-1992, SEC.30; P.L.98-2004, SEC.38.*

**IC 3-12-4-11****Statement prepared by circuit court clerk; signature of county election board**

Sec. 11. Each member of the county election board shall sign the statement prepared by the circuit court clerk under section 9 of this chapter.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.195.*

**IC 3-12-4-12****Statement prepared by circuit court clerk; copies to county chairman of each political party**

Sec. 12. Not later than noon Monday after the county election board certifies the election results under section 9 of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.196; P.L.3-1995, SEC.127.*

**IC 3-12-4-13****Delivery of canvass sheets, certificates, poll lists, and tally papers to circuit court clerk**

Sec. 13. After the county election board has tabulated the vote:

- (1) the canvass sheets used by the board; and
- (2) the certificates, poll lists, and tally papers returned by each inspector in the county;

shall be delivered to the circuit court clerk. The clerk shall file and preserve all the material in the clerk's office as provided in IC 3-10-1-31 or IC 3-10-1-31.1.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.197; P.L.199-2001, SEC.26; P.L.14-2004, SEC.159.*

**IC 3-12-4-14****Tie votes**

Sec. 14. If two (2) or more candidates receive the highest and an equal number of votes for a local office, the county election board shall:

- (1) declare that no person is elected to fill the office; and
- (2) certify the tie vote in the statement prepared by the circuit court clerk under section 9 of this chapter.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.198.*

**IC 3-12-4-15****Conditions prohibiting rejection of certificates, poll lists, or tally papers; return from precinct election board**

Sec. 15. A county election board may not reject the certificates, poll lists, or tally papers returned from a precinct election board:

- (1) for lack of form or for not being strictly in accordance with the directions contained in this title if the certificates can be satisfactorily understood; or
- (2) if the returns are certified by the precinct election board as

required by IC 3-12-2-6, IC 3-12-2.5-6, IC 3-12-3-2, and IC 3-12-3.5-6 and returned by the inspector or one (1) of the judges of the board.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.359; P.L.3-1993, SEC.199.*

#### **IC 3-12-4-16**

##### **Disagreement as to how to count vote of precinct; report to judge of circuit court with written brief stating grounds of disagreement**

Sec. 16. If there is a disagreement between the members of a county election board as to how the vote of a precinct should be counted, the board shall:

- (1) immediately report the matter in dispute to the judge of the circuit court; and
- (2) provide the judge with a written brief stating the grounds of the disagreement and all papers concerning the matter.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.200.*

#### **IC 3-12-4-17**

##### **Judge's determination on disagreement**

Sec. 17. The judge of the circuit court shall summarily determine a dispute presented under section 16 of this chapter and direct the county election board how to count the vote. The judge's determination is final with respect to the action of the board.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.201.*

#### **IC 3-12-4-18**

##### **Voting machines or electronic voting systems; inspection of registering counter; time**

Sec. 18. If voting machines or electronic voting systems are used in a precinct, the county election board may request authorization from the state recount commission to inspect the registering counter or other mechanical recording device on any voting machine or electronic voting system showing the number of votes cast for any candidate or public question. If authorized by the state recount commission, the board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.360; P.L.3-1993, SEC.202.*

#### **IC 3-12-4-19**

##### **Voting machines or electronic voting systems; place of inspection; presence of accredited representative of each major political party**

Sec. 19. To inspect a voting machine or electronic voting system under section 18 of this chapter, the county election board may proceed to any place in the county where the machine or system is located, kept, or stored. However, the board shall make the inspection in the presence of an accredited representative of each of the major political parties of the county.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.361; P.L.3-1993, SEC.203.*

#### **IC 3-12-4-20**

##### **Voting machines or electronic voting systems; comparison of number of votes registered on counter with returns made by precinct election board**

Sec. 20. When making an inspection under section 18 of this chapter, a county election board shall compare the number of votes registered on the counter or other mechanical recording device on the voting machines or electronic voting systems with the returns made by the precinct election board of the precinct in which the voting machine or electronic voting system was used.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.362; P.L.3-1993, SEC.204.*

#### **IC 3-12-4-21**

##### **Voting machines or electronic voting systems; discrepancy between number of votes registered on machines and returns made by precinct election board; correction**

Sec. 21. If there is a discrepancy between the number of votes registered on a voting machine or electronic voting system and the returns made by the precinct election board, the county election board shall correct the returns made by the precinct election board so that the returns conform to the vote registered on the voting machine or electronic voting system. The corrected returns shall be considered the true and correct returns of the number of votes cast for each candidate or on each public question in the precinct.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.363; P.L.3-1993, SEC.205.*

#### **IC 3-12-4-22**

##### **Contested election or nomination; recount; corrected returns as prima facie evidence of vote**

Sec. 22. If a nomination or election is contested or a recount is conducted, the returns of each precinct election board, as corrected by the county election board under section 21 of this chapter, constitute prima facie evidence of the vote cast for each candidate and on each public question to the same extent as the tabulation and return of the vote in a precinct where voting machines or electronic voting systems are not used.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.364; P.L.10-1988, SEC.129; P.L.3-1993, SEC.206.*

#### **IC 3-12-4-23**

##### **Tally papers**

Sec. 23. The county election board shall have tally papers printed for use in tabulating the vote at each election held under its jurisdiction. The tally papers must:

- (1) contain the name of each office and candidate to be voted

for at an election;

(2) provide for tallying the votes on each public question submitted to the voters; and

(3) list political parties and candidates in the same order on the tally sheet as listed on the ballot printed by the county election board under IC 3-11-2-6.

*As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.207; P.L.3-1997, SEC.343.*